

1. Many private sector employees lost their jobs during the ongoing COVID-19 pandemic. Does it warrant a strict regulatory regime for the corporates to dissuade them from firing their employees during times of distress? Critically examine.

Demand of the question – Showcase the job losses due to ongoing COVID-19 pandemic and then examine whether a strict regulatory regime is necessary for corporates to dissuade them from firing employees during times of distress. Examine both sides of the argument with substantial points.

Introduction

The outbreak of the coronavirus disease 2019 (COVID-19) pandemic has caused widespread disruption of businesses and daily life. As governments across the world struggle to contain the pandemic, India has seen multiple measures such as mandatory social distancing through the imposition of a series of restrictions which has resulted in increased risk of loss of jobs in private sector.

Body

- Job loss is the most severe immediate impact of COVID-19 crisis while lower economic growth and rise in inequality would be the long-term effects, according to a survey by the Indian Society of Labour Economics (ISLE).
- In light of this situation, the Central government has asked all companies to ensure that workers, especially contract labour, who take leave as a precaution towards the coronavirus pandemic (Covid-19) should be treated to be 'on duty' and their salaries should not be deducted.
- The advisory further stated that "if the place of employment is to be made non-operational due to the Covid-19, the employees of such unit will be deemed to be on duty." This means that if any establishment is closed due to a positive case of Covid-19 virus in the premises then the employees will be considered to be 'on duty' and not on leave.
- Although there are terms of employment defining the specific terms, the employees in the organized private sector are governed by various laws such as Payments of Bonus Act, Equal Remuneration Act, Payment of Gratuity Act, Employees Provident Fund and Miscellaneous Provisions Act, Employees' State Insurance Act, Maternity Benefit Act, etc.
- Employers are generally obligated to ensure a safe and healthy work environment for their workforce, and must do 'everything reasonably possible' to ensure prevention of COVID-19 outbreak at the workplace.
- The Central Government as well as few State Governments such as Haryana, Uttar Pradesh, Maharashtra, and Karnataka have issued advisories/ orders asking employers to refrain from terminating or reducing wages of their employees pursuant to Covid-19.
- It is, therefore, advisable that before taking any action for the reduction of the workforce during the lockdown, the employer must check the

advisories/orders/notifications issued by the respective State where its business establishment is situated.

- In a case no such advisories/orders are issued, reduction or downsizing can be done subject to the policies of the employer, terms and conditions of the employment agreement/contract and complying with the due process of law.
- The Employees Provident Fund Organization (EPFO) has announced - employees who contribute to EPF can withdraw up to 75 percent of the account balance or 3 months' basic salary and dearness allowance, whichever is lower.
- EPFO issued the circular which states that no proceedings should be initiated on establishments covered under the EPF Act for levy of penal damages on account of any delay in the payment of any contributions or administrative charges due for any period during the lockdown.
- In view of the government's decision declaring COVID-19 as a pandemic, the Pension Fund Regulatory and Development Authority (PFRDA) allowed partial withdrawals from the NPS to fulfil financial needs towards treatment of the COVID-19 illness.
- These above given points clearly show the measures by government to dissuade corporates from firing their employees during these times of distress where the survival of people has become difficult.
- But at the same time, it is clear that these measures are also advisory in nature where there is no strict supervisory mechanism of government to ensure implementation of these suggestions/advice.
- Such a situation clearly demands the setting up of a strict regulatory regime for corporates to avoid such mass laying offs during times of distress like a pandemic.
- In this regard, a collaborative approach and a strong social security system become pre requisites for development of such a regime.

Conclusion

Covid-19 pandemic has brought out the deep rooted fault lines in global and national economic models where an intensely capitalistic economic pursuit is leaving the survival of large sections of population at stake during times of distress, which is clearly against India's constitutional and civilizational ethos and needs strong safeguards.

2. A person well versed in law but having low moral values can't be a good judge. Do you agree? Substantiate your views.

Demand of the question – Your views regarding the conditions of a person who has low moral values but is well versed in law not being a good judge is sought wherein your views need to be substantiated properly.

Introduction

Morality stems from individual's conscience and values of a society, therefore, what morality means to one, may not be to other. Whereas, laws are the rules and regulations which has sanction of the state and enforceability on its back. Law of the land is regulations where an individual has to submit himself to the will of the state or society.

Body

- According to the sources of Hindu Law like Shrutis, Smritis and Vedas, there was no distinction between law and morality. Ancient times speaks that both the terms conveyed same meaning. It is evident that both law and morality serve to channel the behaviour of an individual.
- In modern times, morality is the basis of law only at the places where the law accepts the grounds of morals for making it otherwise, in contemporary world, morality and law has different meaning. Law can be identified without any reference to morality.
- Some people think judges should not be reasoning morally at all. They think judges should just find the law and apply it to the cases that come before them, in a way that is independent of their own values and principles.
- Their responsibility to the law means that their assignment is to discover the results of other people's moral reasoning — the moral reasoning of the framers of the Constitution or the moral reasoning of legislators or the moral reasoning of earlier generations of judges — and to apply those results to the cases that come before them.
- On this account, the fact that judges would be as good or bad in their personal moral conduct which shouldn't affect the functioning of judge and he/she can still be considered a good judge on the basis of his expertise in law.
- But most sophisticated jurists no longer accept this simple division of labour, in which judges never reason morally but simply discover and apply the results of others' moral reasoning. Many believe that even if judges have a responsibility to find and apply the law, they also, sometimes, have to engage in moral reasoning as an inescapable part of their role.
- "Law as a system of values" where the relationship between law and values is "not a straightforward one". By "values" one meant to include "what a society regards as most worthwhile."

- Often values are moral values but they need not be; and moral values certainly need not be founded on the doctrines of religion in general or any religion in particular.”
- Many legal rules were intended to “give effect to certain basic values of a society”, and this provided “much of the moral force which is needed to support positive rules of law, in particular the rules of criminal law.” A society could not function without rules prohibiting murder or theft.
- Here, we can see that a person having low morals will not be able to be a good judge as his low morals will impact the decisions where his moral arguments are to be incorporated in the process.
- However, just because something was considered by many to be morally wrong did not necessarily mean that it would be, or should be, prohibited by law. Examples are adultery.
- Law reflected the values of the society, but that did not necessarily mean everyone in that society agreed with the values reflected. Examples were the law on abortion or gay marriage.
- Even though the secular courts now disavow any duty or intention to enforce morals, the law which they apply is still based on and reflects values.
- Law and morality might seem very diverse but they have one obvious thing in common: they affect the way we live. The problem is that it is inevitable to say that there is a huge conflict between law and morality and this conflict shows itself on some specific examples.
- In today’s world some of the law experts may claim that law is absolute. Its importance is over than all other regulators like morality. However the conflict between them proves that moral principles are still stronger than legal principles for some cases.
- They also overlap like to keep your own promise is a rule of morality but also it is essential principle of international law, code of obligations and more.

Conclusion

It is said that morality cannot be legislated and thus a person with low morals is bound to influence the justice process based on law and morality where a person with strong morality and clear acumen in law can be an effectively good judge.

3. Do you agree with the assertion that being an ethical civil servant is not at all practical in a materialistic world? Substantiate your views.

Demand of the question – You need to present your thoughts about the assertion that being an ethical civil servant is not at all practical in a materialistic world and substantiate your points effectively.

Introduction

Ethics can be defined as a set of “moral principles that govern a person’s behaviour or the conducting of an activity”. Ethical behaviour entails certain socially acceptable conduct that may not have been codified formally into a law or a rule where an ethical civil servant has to face multiple dilemmas in navigating the world.

Body

- Ethics relates primarily to the nature of ultimate values and standards by which human actions can be judged. The purpose of ethics is to define acceptable human behaviour through knowing the types of actions, its consequences and the limits of both humans and actions as well as their acceptability.
- Ethics evolved in a slightly different form in the context of bureaucracy as, over a period of time, a large part of ethical behaviour, i.e., what was expected of a civil servant, came to be codified and became a part of some legislation or a rule thereunder. Thus, dishonest conduct became punishable under the law. Here, we can see that being ethical pays in terms of both material as well as moral aspects of a civil servant.
- Further, a civil servant has all the requirements of material needs fulfilled by the government to ensure complete ethical and optimum functioning of a civil servant. Here, material needs being fulfilled satisfy Maslow’s need hierarchy where an individual has his needs fulfilled.
- Civil servant being a role model of the area he/she is serving needs to be morally and ethically sound where materialistic tendencies can influence and interfere in the efficient functioning of the person. However, there is still a large segment of ethical behaviour expected of a civil servant that is not codified.
- A civil servant is supposed to possess the virtues of objectivity and impartiality. In situations relating to communal tension, and more so during the election process, these become even more critical. The conduct of elections is totally in the hands of civil servants. He cannot but be neutral as the entire democratic process is dependent on him. Here, being ethical is a grave necessity for the larger society.
- No law mandates civil servants to be humane and accessible. However, that is what is expected of them. Such attributes give an enormous amount of satisfaction to the officer himself. They also provide much-needed succour to the person concerned. Such officers are respected and

remembered. They become role models. Here, personal satisfaction ranks more than external material considerations.

- Protecting the interests of the organisation to which he belongs is the job of a civil servant. This may entail some sacrifice on his behalf. It would not only be ethical on his part to do so but it would also be practically beneficial as it could set an example for others to make similar sacrifices. The conduct of each officer is closely observed by those around him. Hence, he should be seen as taking a lead. Here, future career prospects also improve drastically which also improve material aspects of one's life.
- No officer can be penalised for not protecting his colleagues and subordinates. It is, however, ethically incumbent upon him to protect them from unwarranted harassment or victimisation. Such conduct will be beneficial to the officer himself even otherwise. He will be perceived as a person who stands by his colleagues. He will be recognised and revered for his conduct. In doing so he will reflect a leadership trait as well.
- Ethical behaviour is the best not merely in the context of morality, but it is also the best in the context of his own career prospects. The reputation of an officer gets built on the basis of his ethical conduct, which can stand him in good stead in future. Moreover, ethical behaviour also imparts an enormous amount of moral authority to the concerned officer. These have multiple intangible benefits which cannot always be enumerated.

Conclusion

Thus, an ethical civil servant is more practical than an unethical one where benefits of being ethical far outweigh the other aspects and also, being ethical for the sake of being ethical shows strong ethical competence where external factors like materialism take a back seat.

